No. 16-1140

In the Supreme Court of the United States

NATIONAL INSTITUTE OF FAMILY AND LIFE ADVOCATES, dba NIFLA, *et al.*,
Petitioners,

v.

XAVIER BECERRA,
Attorney General of California, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF 13 WOMEN AND THE CATHOLIC ASSOCIATION FOUNDATION AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS

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INTERESTS OF *AMICI*[1]

Amici 13 women, listed and described below, include direct and indirect beneficiaries of the free services provided by not-for-profit pregnancy resource centers and medical clinics in the state of California and across the United States. They attest to the dignified care and hope that women and their children receive at such centers and clinics.

Amici, The Catholic Association Foundation (TCA), is a lay organization dedicated to being a faithful voice for the Catholic Church in the public square. Catholics have played a leading role in founding and running pregnancy centers across the country. The Catholic Church in the United States sponsors the Gabriel Project[2], a parish-based ministry that brings hope to pregnant women in crisis, and Project Rachael[3], a diocesan-based network of specially trained priests, religious counselors, and laypersons who respond to and care for those who have procured an abortion. These ministries work with the centers and clinics in

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[1] All parties received timely notice of the intention to file this *amicus* brief and consented to its filing. No counsel for a party authored this brief in whole or in part. The Catholic Association Foundation contributed the costs associated with the preparation and submission of this brief. All statements made by *amici* 13 women are on file with counsel for *amici curiae*.

[2] For information about Gabriel Project, *see* http://www.gabrielproject.us/index.html

[3] For information about Project Rachel, *see* http://www.usccb.org/issues-and-action/human-life-and-dignity/abortion/project-rachel/index.cfm and http://hopeafterabortion.com/

their communities to offer care and support to women in need.

Amici strongly oppose any civil sanctions that would impede the ability of licensed and unlicensed pregnancy centers in the state of California to provide free support and services to women and their children.

ANGELA JOZWICKI grew up in a household "with a lot of screaming" and turned to drugs when she was fourteen years old. Although she had sporadic periods when she was "clean," Angela was unable to stop using for years. When she was twenty-two years old, Angela discovered she was pregnant. "I knew in my heart that a baby would stop me from having drugs, but I wasn't ready." Angela had an abortion. "It was June 1, 2006. I will never forget that date." "I used abortion to avoid getting better."

Struggling with addiction and other health concerns, Angela never thought that motherhood was a possibility. "I was taught that you get married, buy a house, and you have a baby. Because I did not see that in my future, I never thought I would have a baby." In October 2015, Angela sensed something was different about her body and bought a pregnancy test from a dollar store. The test was positive. Because Angela was still using drugs, she made another appointment to have another abortion. She asked the baby's father to drive her to the clinic when the day for the appointment came. When Angela called him that morning, he did not answer his phone. Angela kept calling, but he never answered or showed up. Angela believes that "God showed up." "I decided that I would keep that baby."

Because of her addiction and the circumstances of her pregnancy, Angela felt that she could not turn to her family for support. Angela started "calling a bunch of numbers of places that help pregnant women." Soundview Pregnancy Services in Centereach, New York, answered her call and encouraged Angela to come in. At her first visit to the center, staff showed Angela her growing child on an ultrasound. Every subsequent week, Angela met with Barbara, a staff member at the center, and the two watched videos about pregnancy and childcare and spoke about how Angela was doing. When it came time for Angela to deliver, Barbara went to the hospital to be there for Angela. "I did not think that she would come, but she was there."

Staff at the center helped Angela enroll in the Women, Infant and Children supplemental nutrition program (WIC)[4] and get in touch with New York's Department of Social Services for financial assistance during her pregnancy and after childbirth. Angela plans to begin working again once her son Cameryn is old enough to start preschool. In the meantime, Angela and her son are living with Angela's mother. Though Angela and her mom have had a strained relationship, counselors at the center have met with the women and

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[4] The United States Department of Agriculture offers a special supplemental nutrition program for Women, Infants, and Children (WIC) that provides federal grants to states for supplemental foods, health care referrals, and nutrition education for low-income pregnant, breastfeeding, and non-breastfeeding postpartum women, and to infants and children up to age five who are found to be at nutritional risk. *See* https://www.fns.usda.gov/wic/women-infants-and-children-wic.

slowly helped bring the mother and daughter together for the sake of a loving and supportive home for Cameryn.

Angela continues to attend weekly sessions at the center and benefits from parenting courses and supportive counsel as she struggles with both single parenting and staying clean. "I always thought that people were fake, but they are genuine. This is who they really are. They will help me to raise my son to be genuine." Looking forward to life now, Angela credits the center with giving her "support so that I don't turn back to drugs."

BRENDA COE and her husband were introduced by a mutual friend to Krystal, a single mother in a crisis pregnancy. Krystal already had a two-year-old son and felt unable to raise another child in her circumstances. Krystal had visited the Pregnancy Help Center in Torrance, California, to confirm her pregnancy, and while there, spoke with counselors about adoption. After meeting the Coes, Krystal asked them to adopt her baby.

The center was a resource to Krystal throughout her pregnancy, and Brenda accompanied Krystal there regularly. Brenda came with Krystal to ultrasounds and helped her interview the obstetrician she eventually selected, who also volunteered at the center. Brenda and her husband were present at the child's birth. Brenda remarks that they were "overjoyed" with the prospect of "walking with Krystal during her pregnancy." The staff at the pregnancy center supported all of them throughout the pregnancy and adoption process. Brenda and her husband stay

connected to Krystal by exchanging pictures and speaking over the phone.

Brenda is grateful for the assistance Krystal received at the center. "I think birth parents should be encouraged to be the best God wants them to be so that their adopted children can find them in a strong place." In Brenda's experience, "women are not being forced into not having an abortion, but are being shown that they have options and resources to choose life. The center removes a 'crisis' a woman is facing so that they can make a positive, life-affirming choice."

BROOKE NORTH found healing at the Hope Pregnancy Center in Pontiac, Illinois, after decades of trauma and abuse. At the age of eleven, Brooke was put into the foster care system following years of physical abuse by her father. She had been in and out of several foster homes and endured multiple occasions of physical, sexual, and emotional abuse during her childhood. As an adult, Brooke suffered an even more horrific experience: She was kidnapped and sexually assaulted over a two-week period until her abductor was captured and imprisoned.

When Brooke discovered in mid-2015 that she was pregnant, she enrolled in WIC for assistance. The local WIC agent referred Brooke to the Hope Pregnancy Center to "get the stuff you need." Brooke never considered an abortion as something she wanted or needed. "They opened up the center to help moms in need. They do not pressure you not to get an abortion if you want one. But they are there to help women *have* their children." Brooke had two great needs when expecting her first child: someone to listen to her and

infant necessities. At the center, both of Brooke's needs were met.

Center staff listened and lent a supportive hand. As part of the center's "Earn while you Learn" or "Hope program," Brooke received "mommy bucks" each time she attended a counseling session or class. With her "mommy bucks," Brooke obtained diapers, wipes, clothes, and even things for herself during and after pregnancy. When she needed something but did not have enough to buy it, she was never denied.

Brooke continued to visit the center after her son Keetan was born in April 2016. In addition to basic childcare items, Brooke wanted an ExerSaucer jumper for her son as he was becoming more mobile. Although the center did not have one when she inquired, she received a call shortly afterwards that they had a brand-new saucer and would hold it for her until she could arrange to pick it up at the center.

A year later, Brooke met the man who would become her husband. The couple married in February 2017 and were expecting a child. Brooke returned to the center, this time with her husband. With the center's newly acquired ultrasound machine, Brooke and her husband were "allowed to see their baby" at the center. Brooke still has the ultrasound pictures they received that day.

Becoming a new father was daunting for Brooke's husband, but center staff encouraged him by pointing out the "perks" of being a dad. They also explained the different stages of Brooke's pregnancy. Brooke notes that "everything that I was in, he was always offered to be a part of." Recognizing Brooke's husband's desire to

become better informed, staff taught him how to burp a baby and how to change a baby using a doll. They provided him with a series of pamphlets entitled "Beginning of Fatherhood" and encouraged him to join Brooke in reading the "Pregnancy week by week" book they had given the couple. After so much preparation, Brooke remarks of her husband, "I think that he is a pro."

Brooke and her husband were nervous about parenting two children so close together in age. Christy, a client coach at the time, offered encouragement. Of Christy's support, Brooke says, "She got me in a positive state where I was confident enough to take care of both of my children." In October 2017, Brooke had a little girl, Kathy. Not yet two, Brooke's son Keetan "is the best big brother ever. It is all because Christy taught me how to make him a part of this new baby."

The center offered so much more than information about pregnancy and motherhood to Brooke; staff offered genuine friendship. "When I told them that I got a job or was expecting another baby, they were excited." Brooke says matter-of-factly:

> There should be more of them across the country. There are so many people struggling and the center is the one place that is the 'go to' to guarantee success as a parent. They help with referrals, vouchers. I would like pregnancy centers to be all over the place. It is not just for the parents, but the kids. The people who donate their time and money help not just women but their children. The people at the

center are the sweetest, most caring, full-of-energy people.

Brooke credits the Hope Pregnancy Center in Pontiac, Illinois, for helping her to overcome her traumatic childhood and to grow as a strong woman, wife, and mother.

CRISTINA HURTADO was a teenager who could not afford a pregnancy test when she found the Care Pregnancy Resource Center in Visalia, California, nine years ago. She was relieved to find a place that offered free and confidential tests as she was afraid to take one by herself. As she waited, a staff member at the center sat with Cristina, and the two discussed what Cristina would do if the test were positive. Cristina was nervous, but having someone by her side helped. The test was negative, but Cristina continued to visit the center for its other programs.

Years later, when Cristina discovered that she was pregnant, she was not as scared. She knew that the center would be there for her and that she could "take advantage of their support." Cristina took parenting classes at the center and received individual counseling on preparing for motherhood with Vera, one of the center's staff. "Vera was always friendly to me. I knew that she would not judge me and I felt comfortable with her. The pregnancy and parenting classes helped answer all of my questions."

When it was time for her baby to be born, Cristina asked Vera to accompany her during labor. It was a natural thing to have Vera there along with Cristina's godmother and the baby's father. Vera was family. The center also made things easier by providing

Cristina with a diaper bag, diapers, wipes, shampoo, formula, and strollers. "Pretty much everything that I did not have access to I got from them." Staff at the center and even other clients provided "so much information" to Cristina about her pregnancy and her baby's development. Cristina credits these connections with helping her "to be a good mother."

Cristina recently saw a friend at the center who was pregnant and considering having an abortion. "I knew she was in great hands." After learning about the resources available throughout her pregnancy and beyond, Cristina's friend decided against the abortion. According to Cristina, "the more [my friend] learned and became educated, the more she was committed to having her child."

Cristina credits the center with having an incredibly positive presence in her life. "I think that if I would not have found the center, my life would have been a disaster. I came to the center looking for a pregnancy test and I found so much more. If you look at who I was when I first went to the center and now, I am a totally different person."

EBONY HARRIS was a bright and vivacious 26-year-old when she suddenly faced the most troubling and confusing news of her life: She was unexpectedly pregnant. Gripped by anxiety and uncertainty, Ebony resolved that her own future well-being mandated quick and decisive action. She would have an abortion; nobody had to know. Ebony scheduled the abortion at a clinic but left with an uneasy feeling. The clinic's staff was cold and harsh, offering no counsel and no information about the procedure apart from its price – just pressure. One staff member told Ebony, "The cost

of raising the child will be far more expensive than the cost of an abortion." Ebony did not meet with a doctor or nurse and was not informed of any other option.

After hearing about the Greater Baltimore Center for Pregnancy Concerns through the radio, Ebony met with Linda, one of its coordinators. Ebony was surprised when the first thing Linda did was hug her. This was the first time anyone had shown Ebony any compassion or support while she faced this situation. Linda advised Ebony that the center did not perform or refer for abortions, but offered many other services, all free of charge, including sonograms, pregnancy tests, prenatal classes, post-natal classes, and material support such as diapers, formula, clothes, and toys. According to Ebony, "Linda was warm, gentle, and supportive." Ebony was also surprised to see jars of baby food, diapers, and baby formula sitting on a table. Ebony requested a sonogram, saw and heard her child's heartbeat for the first time, and received information about the development of her child. Ebony referred to this meeting as:

> . . . educational and very informative, something the clinic did not do. I am not pro-life and I am not pro-choice. I am pro-information. People should be properly educated before making a decision. The abortion clinic did not offer any education, counseling, or support. The clinic had a cold attitude. It felt like someone was trying to make a sale.

After Ebony left the center, she still leaned toward having an abortion. Linda unequivocally stated that "either way, the center will be there for her." After much deliberation, Ebony decided to give birth to her

son, and Linda kept her promise. Center staff visited Ebony at her house and brought baby clothes, diapers, wipes, food, toys, and even a stroller. The staff helped her beyond merely caring for her baby. When Ebony had to move to a new apartment, she had no curtains, and even if she could have afforded them, she "would not have been able to hang them herself." Staff took Ebony to the store, bought her the curtains, carried a ladder up three flights of steps, and installed them for her.

Ebony spoke in no uncertain terms: "[The center] has only been a help to me. I have taken and referred other people, and they have been helped too. [The center] has been a blessing." Today, Ebony flourishes not just as a mother, but as an author, speaker, workshop instructor, home educator, and publisher. She credits the center with giving her an authentic and informed choice during a desperate moment in her life and for helping her to grow into an accomplished and empowered woman.

JUDITH DOWNES is a 70-year-old woman and a committed pro-lifer. Since 1984, Judith has volunteered at Alternatives Pregnancy Center in Denver, Colorado. The center took on a more profound role in Judith's life five years ago when she began post-abortion counseling for an abortion she had undergone over 40 years earlier.

Judith was living in Virginia in the mid-1970s and thought her life was perfect: She had been married for six and a half years and had a beautiful two-and-a-half-year-old. She anxiously anticipated welcoming another child to the family. But one day, Judith's husband came home from a business trip and told her that he

did not want to be married anymore. Judith was eleven weeks pregnant. "As far as I knew at that time, there was no one I could consult with on how I should make a decision." Concerned about being a single mother with "no safety net" and "no one to turn to," Judith called her doctor's office. The office offered Judith no information about her options or the support available to her during her pregnancy or as a single mother. They simply referred Judith to a nearby abortion clinic. Judith felt confused and hopeless, and pressured by her husband, who brought her to the abortion clinic. Judith recounts that after her abortion she was left with "confusion" and "crippling shame and grief" that affected every area of her life.

Motivated by her own horrible experience with abortion, Judith got involved with Alternatives as a volunteer. But she didn't realize how much she still suffered from her own abortion. Despite having seen counselors and psychologists throughout her adult life, it was not until she met with her friend Maureen, executive director at Alternatives, that Judith saw the role her abortion had played in her life. "I still recall when Maureen said so simply, 'Judy, abortion is really hard on women.'"

At Maureen's suggestion, Judith set up an appointment to meet with Nicole, the post-abortion counselor at the center. At first, Judith was doubtful. "I was very put off because she was so young. I needed someone who was an expert." But as the two spoke, Judith found Nicole to be "the kindest, most patient person in my life." Judith and Nicole met individually for an hour every week for many months. Through counsel with Nicole, Judith finally began to "connect

the dots." "I suffered with abusive relationships as a form of punishing myself, thinking that it was something I deserved for having aborted that child."

Trained now as a post-abortion group leader, Judith has led groups of women of all ages, including specific groups of women between the ages of 55 and 65 who have procured abortions. During the 13-week long sessions, Judith has seen women "come in struggling, broken and confused and then move into freedom, acceptance and peace." Women are able to "share with each other, hear each other's stories, cry with each other and be there for each other." Judith feels very strongly that "I would not have been able to come to this level of healing without Alternatives. Alternatives is motivated toward good and healing, based in love and concern." Judith would love to "shout from the rooftops" that there are places for women who have chosen an abortion to go to in order to confront their grief and "come out of the darkness."

LAURA WU thought she had met her soul mate. While working as a full-time teacher and studying at night for a master's degree, Laura and her boyfriend spoke about marriage and the names of their future children. But when Laura told her boyfriend that she was pregnant, he was angry. "He told me, 'It is either me or this child. If you chose this child, you will do it alone. You won't have your parents to support you. What kind of mother would you be to bring a child into this world if his father did not want him?'" Laura initially agreed to abort their child, but quickly changed her mind. An aunt of Laura's volunteered at Boro Pregnancy Crisis Center in Queens, New York, and encouraged Laura to call for an appointment.

At Laura's initial appointment, she went through the center's "options counseling" where Laura received information about adoption, abortion education, and single parenthood. Laura chose to continue with her pregnancy.

Although staff at the center told her about assistance through WIC, Laura was deemed ineligible because of her teaching salary. The expense of welcoming her daughter, however, was significant. For each appointment Laura attended at the center, she was awarded "points" which she could trade in for material help such as a bassinet or a car seat. "For me that was hope. Just knowing that they were there if I needed them was a big, big help."

Laura's parents and faith community offered great support during the pregnancy. Another important presence in her life was Vince, a New York Police Department officer and Laura's high school sweetheart. After Laura's baby Hannah was born, Laura and Vince got married. Two years later, Vince formally adopted Hannah. The center continued to play a significant role in Laura's life, helping her grieve the end of her relationship with her daughter's father, the death of Laura's own father, and the challenges of marriage and parenting. "All of my healing, just feeling that I could do this is because of [the center]. Had they referred me to an abortion clinic, I don't know how I would have reacted. [They] gave me the hope I needed to know that I could do this alone. And they did not make me feel alone. Instead they gave me counsel for four years at no cost."

When her family moved from Queens to Long Island, Laura visited a local church that was running

a "diaper drive" for a local pregnancy resource center that was opening. Laura contacted the center's executive director to inquire about volunteering. Laura was "hired on the spot" to be a receptionist at Soundview Pregnancy Services and later was trained as a counselor.

"I was initially intimidated in sharing my story." Undaunted, she has been the first point of contact for women who call the center concerned about whether they can handle the responsibility of motherhood. "It helps to see someone who has had the same experience and connection there from the beginning. It is such a blessing to give back." Laura also gives talks to youth groups and local colleges about boundaries in dating and to "let them know that there is someplace other than Planned Parenthood that is there to help."

LINDSEY SAMELSON was pursuing a successful career in real estate and home construction when she discovered she was pregnant. A relationship with a tattoo-covered welder whom she met and supervised on worksites was certainly unexpected. Despite his checkered past, Lindsey was drawn to the love and affection he showed his nieces and nephews and dreamed of parenting with him.

Lindsey was excited at the pregnancy, but also scared. How was she was going to tell her parents? Before she did so, Lindsey wanted to confirm her pregnancy in a medical setting. Unsure about whether her health insurance would cover the cost of an early stage ultrasound, Lindsey googled "free ultrasounds." The search turned up a pregnancy resource center in town.

The baby's father accompanied Lindsey to the appointment, where he was made to feel welcome. "It didn't have that sterile hospital feel. It was warm, inviting." A receptionist handed Lindsey an intake form with questions about the pregnancy. Filling out the questionnaire, Lindsey "never felt pressured. It never felt like they were invading." After Lindsey's pregnancy was confirmed, she was given a "goodie bag" with prenatal vitamins and a folder of information about pregnancy.

Lindsey had a baby girl. The couple eventually wed and shortly thereafter learned that they were expecting another child. The joy of a second baby was magnified by the couple's reconciliation with Lindsey's parents. They are now expecting their third.

For her second pregnancy, Lindsey chose a midwife who performed routine ultrasound exams only after 12 weeks of gestation. Anxious to know that her baby was developing well, Lindsey again set up an appointment for a free ultrasound. She and her husband went together to the Colorado Springs Pregnancy Center for the exam.

Staff stayed in touch and called her shortly after she gave birth both times to make sure that Lindsey had all she needed. Lindsey observes, "The centers are trying to create a space that is joyful for what is a crisis for so many people. It did not feel sterile. The people there were happy to see my baby. They did not treat me like I was a burden. They truly and deeply cared that we were there."

Lindsey's career in real estate and construction is flourishing. She is currently seeking out opportunities

to volunteer in pro-life causes, citing her positive experience with the pregnancy centers as an impetus.

MELISSA LEACH walked into Hope Pregnancy Center in Pontiac, Illinois, to confirm a suspected pregnancy. Sure enough, Melissa was pregnant. The real surprise was that she was nineteen weeks along. The advanced stage of the pregnancy, plus the fact that Melissa was an older mother at thirty-five, made her visit to the center critically timely. While Melissa's doctor performed a range of tests to confirm her pregnancy was advancing well, the center offered a network of support.

Melissa never considered terminating her pregnancy, but did have serious financial concerns. Jayna Vromen, program coordinator at the center, offered suggestions and resources to address these worries during Melissa's very first visit to the center. Melissa also began parenting classes where she discussed parenting her new baby as well as her two older, out-of-state children.

Only nine weeks after her first visit to the center, Melissa went into labor, just short of twenty-nine weeks pregnant. She gave birth by an emergency c-section. Her son was immediately transferred to a nearby hospital's neonatal intensive care unit, while Melissa tried to recover quickly. Melissa returned to the center a few days after her son's birth for a previously scheduled appointment with the news of her son's premature birth. Jayna and Sarah Brummitt, the center's director, immediately went to work. They loaded a diaper bag with preemie clothes, diapers, wipes, and sensitive-skin laundry detergent. Sarah filled Mellissa's gas tank so that Mellissa would not

have to worry about the cost of driving back and forth to the hospital to see her son.

Since his birth, Melissa's son has undergone several surgeries and is steadily growing. His doctors believe that he will soon be ready to go home. Melissa has already set up a "pack and play" crib she got using her credits from "Earn while you Learn" classes from the Hope Program at the center. The only thing she lacks is a car seat. Although the center did not have one available when Melissa last stopped by, Sarah said "she would put the word out to get one." Melissa is confident that Sarah will follow through; "I believe that she will because she has always kept her word."

More valuable than the classes and material items Melissa has received from the center is the friendship and family she has found. "It never felt like they were put out. I don't feel like they gave me special treatment. I feel like every woman who walks through those doors gets the same treatment – open, loving, very warm – especially if you don't have any other supports. You just have to be willing to walk through those doors."

NICOLE HOWARD's pregnancy was a crisis. She had four teenage children and was uninsured. Nicole and her husband were not seeking an abortion, but faced high medical costs if Nicole proceeded with the pregnancy and even greater expenses after the baby's birth. Terrified at that prospect, Nicole recalled, "Everyone knows where to get an abortion. Not everyone knows where to get help with being a mother." A friend referred her to the Greater Baltimore Center for Pregnancy Concerns, where

Nicole participated in "Earn as you Learn" classes every other Saturday. Nicole asserted:

> I could not have done it without them. It had been such a long time since I had a newborn. I could go and earn points by taking classes to get wipes, diapers, clothing, lotions . . . I really depended on those items. I could get them every other Saturday. Otherwise, the center does give them away for free every quarter, but I could not wait that long.

Some of the other classes Nicole attended were "Common Care for Infants," "Emotionally Safe Houses for Children," "Advanced Care for Toddlers," and "Safe Sleeping." Nicole still attends classes every other Saturday and has referred others who have also benefitted from them.

Nicole recalled one winter when she ran out of diapers and a snowstorm trapped her at home. She called the center, and staff arranged for diapers to be delivered to her. She states:

> The center is not only instrumental in giving items to support kids, but it supports comradeship. It is a family. Even when women come and go, the center still reaches out to them. We have parties at the center, bring food, bring our children. We get to see each other's children grow up. It also gives our children the opportunity to participate in community service. They can volunteer and give back.

SHALANE TEHOTU and her husband discovered during their second ultrasound that they were expecting a boy. But their excitement was

overshadowed by the worried look on the doctor's face. He said he had found some abnormalities and ordered further studies. Their boy was later diagnosed with Trisomy 13.[5] Doctors encouraged Shalane and her husband to abort.

The couple contacted A Place for Women in Waipio on the island of Oahu, Hawaii. They immediately found counsel and support for their decision to carry their child to term. Dr. Vivien, the center's doctor, helped them to understand their son's medical report, comforted them with her counsel, and took the time to answer all of their questions. The center also introduced them to a family that had gone through the same thing with their baby girl.

Shalane's son, Giovanni, lived for three hours. He was "surrounded by family and friends celebrating him with pictures, hugs, gifts, and love." Giovanni's parents have no regrets that his life was so short. "We have only special memories we will hold in our hearts until we see him again. We went into A Place for Women broken and scared, but we left with life and courage and we are forever thankful."

SHANELLE FELDER knew how her baby's father "would react and how he would want to handle it" before she even told him the news. He told Shanelle,

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[5] Trisomy 13, also called Patau syndrome, is "a chromosomal condition associated with severe intellectual disability and physical abnormalities in many parts of the body . . . Due to the presence of several life-threatening medical problems, many infants with Trisomy 13 die within their first days or weeks of life. Only five percent to ten percent of children with this condition live past their first year." https://ghr.nlm.nih.gov/condition/trisomy-13

"We are going to take the abortion pill." Shanelle did not even know that there was such a thing as a medical abortion.[6] Despite Shanelle's very strong Christian beliefs and opposition to abortion, she felt pressured to go along. Shanelle thought she had no other option.

The baby's father brought Shanelle to a Planned Parenthood clinic in Denver to get the abortion pill. For Shanelle, that day was "really scary and hurtful." After they performed an ultrasound to determine the gestational age, Shanelle brought the pictures to the baby's father in the waiting room. She hoped that he would be moved to reconsider. He was not. Planned Parenthood staff led Shanelle to another consultation room. Shanelle tried to tell the staff person that she was having doubts, "but things just kept progressing." She remembers "how quick it went with the doctor" when he handed her the pills. He ordered her to take them in front of him. "I had no chance to plead with him." Feeling pressured, Shanelle "was looking for any way out, but [was] unable to stand up for myself." She took the pills and "felt doomed."

In a recovery room, Shanelle was given more pills to take the next day. As she left the Planned Parenthood clinic, Shanelle remembers "feeling super uncomfortable" and "hard on myself" for letting someone else dictate her actions. As Shanelle struggled later that day with what to do next, a friend

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[6] The FDA currently approves a regimen for chemical abortions through 70 days gestation. The regimen involves the pregnant woman taking 200 mg of mifeprex and 800 mcg of misoprostol 24 to 48 hours later. *See* https://www.fda.gov/Drugs/DrugSafety/ucm 111323.htm

called her out of the blue. Shanelle confided in her friend what had happened and her overwhelming feeling of helplessness and despair. Her friend sent Shanelle a link that identified doctors who could reverse the effects of the abortion pill.[7] Shanelle was astounded. The staff at Planned Parenthood had presented the abortion pill as something permanent.

Inspired by this "second chance," Shanelle called a nurse in the area who set up an appointment with a local doctor later that evening. The doctor gave Shanelle progesterone injections as part of the reversal procedure.[8] When Shanelle returned for a second injection, she brought the bag of pills given to her in the Planned Parenthood recovery room. This doctor then referred Shanelle to Alternatives Pregnancy Center in Denver, Colorado, to schedule an ultrasound. Shanelle anxiously called the center to set up the ultrasound appointment. "I had to see if my baby was still alive." She expected to be called in just for an ultrasound exam, but received "much more than I could ever ask for." As she waited for her ultrasound, Shanelle was able to talk and pray with center staff.

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[7] A 24-hour nurse hotline for referrals to physicians specializing in abortion pill reversal is promoted on www.abortionpillreversal.com

[8] The American Congress of Obstetricians and Gynecologists has no guidelines for the use of progesterone injections to reverse the effects of mifeprex, citing the absence of a "body of scientific evidence," *see* https://www.acog.org/~/media/departments/state%20legislative%20activities/2015AZFactSheetMedicationAbortionReversalfinal.pdf. But a growing number of doctors have adopted a medical protocol for reversal established by Abortion Pill Reversal (APR). *See e.g.*, https://lozierinstitute.org/a-second-chance-at-life-reversing-the-abortion-pill/

Shanelle described Whitney, the first Alternatives staff member she met:

> . . . so warm, loving and embracing and was there for me emotionally. She cared enough to cry for me and with me. She was there and talked me through the details of what to do next. She spoke to me about how I felt about the pregnancy. I was on the fence about things. How would I tell [the baby's father] about reversing things? I know we prayed. She asked if I wanted her to be there with me during the ultrasound. I felt that she was my only friend at the time.

Upon seeing her daughter's heartbeat on the ultrasound screen, Shanelle recalls the sensation of "knowing what love is," and the "euphoria of knowing that my child is still alive." Although she was still anxious, it was "amazing to see this baby that still survived."

In subsequent visits to the center, Whitney helped Shanelle garner the courage to tell her parents that she was pregnant. After sharing the news with them, Shanelle "knew that it was ok because it was less of a secret." Shanelle eventually moved from Denver to live with her parents in Florida. Despite having the support of her parents, Shanelle was depressed that her pregnancy was not under more joyful circumstances. Consolation came in the mail.

> Because I was not able to have a baby shower in Denver, [the center] sent me a box with a 'baby shower' inside. I was really depressed, but it touched me. The box had toys, a book, and a

> very nice quilt that we still have to this day – the most thoughtful thing ever – cute burp cloths, and diaper cream. I was overjoyed to get a box.

"My case is a little different in that I did not want an abortion. I was running from an abortion, trying to get away from it." The support Shanelle found at the center gave her the confidence to see that "all of these fears looming over me were all lies."

Two years after her daughter Lillian was born, Shanelle returned the Denver area. One of their first outings was to visit the center.

STEPHANIE KAMANAWA remembers "feeling so offended" as the pastor spoke about abortion healing while she sat as a fairly new member of his church in Oahu, Hawaii. "How dare he talk about that in church." When the sermon was over, however, she walked right up to the pastor's wife and confessed: "I have had two abortions."

Stephanie's first abortion occurred in 1996 when she was only twenty-one years old, living in Maryland. Stephanie was in an abusive marriage. "There was no way that I could support a baby in an abusive marriage. I did not know that keeping my baby at the time was an option. I was trying to solve a problem, but it made more problems. The depth of pain was so deep that I did not have hope. I had no support." In 2001, only five years later, Stephanie again turned to abortion as she discovered she was expecting a baby from a short-lived relationship.

Although now a mother to a beautiful son and married to a loving man, Stephanie continued to feel guilt and emptiness. The pastor's wife referred Stephanie to A Place for Women in Waipio on the island of Oahu, Hawaii. When Stephanie walked into the center, she was taken aback. "It rocked my world that there were people who would not judge me." "Confidential, safe, beautiful, and friendly," the center offered Stephanie, through post-abortion healing sessions, a chance to start anew. "I love to sing and worship God through song. A Place for Women gave me a new voice. After the abortions, I lacked hope to sing."

Today, Stephanie has rediscovered her singing voice and speaks with other women about her abortion "freely, with no shame, no guilt, and no heaviness hanging over me." In the center, Stephanie found incredible support and was able to confront her prior decisions.

> My own personal experience is that they are the real deal. Every step along the way. The women who work there have strong bonds and run with integrity, honesty, love, nurturing, and care. They make sure that there is a comfortable setting. They are confidential and upfront with women who are there. They feel so strongly about telling the truth. It is such a raw and real experience for me. People can always come against them and lie, but I want people to know that the center wants to help, not to hurt.

Stephanie has also connected with her community. Initially, she volunteered at the center, cleaning it once a week. She now works as a youth group director in

her church. "As director of our youth group, I adopted fifty kids to replace the two that I lost."

SUMMARY OF ARGUMENT

Americans respond generously and without fanfare to their neighbors' sudden needs and crises. One crisis that exists each day across the country is the challenge of an unexpected pregnancy. The solution most commonly offered is abortion.[9] While abortion is sold as a quick and easy fix, for many women, it is not the solution they seek. What they want instead is to welcome their child into the world.

Responding to the desire of these women, countless volunteers come to the rescue. Staffed predominantly by women, over two thousand pregnancy resource centers and pregnancy medical clinics across the United States offer alternatives to abortion and post-abortion counseling.[10] In the state of California alone, there are an estimated two hundred such centers and clinics.[11] These centers and clinics offer free services such as pregnancy testing, classes in prenatal development, assistance in enrolling in WIC, Medicaid for pregnancy and delivery care, parenting and spousal

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[9] 652,639 legal, induced abortions were reported in 2014 to the Center for Disease Control from its 49 reporting areas. The abortion rate for that year was 12.1 abortions per 1,000 women aged 15–44 years. *See* https://www.cdc.gov/reproductivehealth/data_stats/abortion.htm.

[10] *See* http://studentsforlife.org/prolifefacts/cpcs/.

[11] *Nifla v. Harris*, No. 16-55249 (9th Cir. Oct. 14, 2016), Slip op. at 7 (citing Assem. Comm. on Health, Analysis of Assembly Bill No. 775 at 3).

classes, and training in basic skills in addition to free essentials like diapers, baby food, formula, and strollers. Radiologists provide ultrasounds, free of cost. Women are offered an authentic choice and the chance to flourish and thrive as mothers, despite their circumstances.

Rather than supporting and promoting these "neighbor-helping-neighbor" efforts, the state of California has enacted a law that purposefully targets pregnancy centers with burdensome requirements that go directly against their mission. California's Reproductive Freedom, Accountability, Comprehensive Care, and Transparency Act (the FACT Act)[12] requires a pregnancy medical clinic qualifying as a "licensed covered facility" to hand out a notice that immediate and free or low-cost abortions are available through public programs. Id. § 123472(a)(1). The FACT Act also obliges pregnancy resource centers not meeting this definition to notify women that they are not "licensed as a medical facility by the State of California" and that they have "no licensed medical provider who provides or directly supervises the provision of services." Id. § 123472(b). Refusal to comply with these requirements subjects centers and clinics to civil penalties. Id. § 123473.

California's FACT Act is just one example of a troubling trend of states and cities attacking pregnancy resource centers and medical clinics. The state of Hawaii, for example, recently passed a law requiring medical and nonmedical pregnancy centers to post a disclaimer that Hawaii has free or low-cost "family

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[12] *See* California Assembly Bill No. 775

planning" programs, including abortion.[13] Under this new law, centers in Hawaii must, at a minimum, notify women who enter their centers of these programs and direct them to the state's website for more information. In Illinois, doctors and nurses working at pregnancy centers are required to promote abortion to their pregnant patients.[14] And the city of Baltimore adopted an ordinance that requires pregnancy centers to post signs stating they do not perform abortions.[15] All of these laws are or have been subject to scrutiny in federal courts.[16]

Amici 13 women have voluntarily come forward to publicly share a delicate and private part of their lives regarding the real and lasting support that pregnancy resource centers and medical clinics throughout the country offer women and their families. *Amici* feel as though these centers and clinics are important places that offer women the chance to make an informed choice and improve the circumstances of their lives and the lives of their children.

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[13] *See* Hawaii Senate Bill 501 of the 2017 Hawaii legislative session.

[14] *See* Illinois Health Care Right of Conscience Act, 745 ILCS 70.

[15] *See* Baltimore City Council Ordinance 09-252.

[16] The Fourth Circuit recently struck down the Baltimore ordinance as violating the First Amendment. *See Greater Baltimore Center for Pregnancy Concerns, Inc. v. Mayor and City Council of Baltimore*, No. 16-2325 (4th Cir. Jan. 5, 2018).

ARGUMENT

I. PREGNANCY RESOURCE CENTERS AND MEDICAL CLINICS ARE WARM AND LOVING COMMUNITIES OFFERING VALUABLE AND INFORMATIVE CARE

Amici wish to come forward in response to allegations by the state of California that pregnancy resource centers and medical clinics employ "intentionally deceptive advertising and counseling practices [that] often confuse, misinform, and even intimidate women from making fully-informed, time-sensitive decisions about critical health care."[17] Contrary to the state's unsupported allegations, *amici* experienced valuable and informative care.

Amicus Angela Jozwicki abandoned a life of dependence on drugs after she chose to become a mother. The constant presence of staff at a center in Centereach, New York, strengthens Angela's resolve in ways that she was not able to do on her own.

Amicus Brooke North and her husband were able to see their child for the first time thanks to an ultrasound administered at a center in Illinois. Both young parents received tools to grow as a couple during Brooke's pregnancy and to prepare themselves for welcoming another child into their home.

Amicus Cristina Hurtado received support and counsel at a pregnancy resource center in California that included "so much information" that she was able

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[17] *See* Assem. Comm. on Health, Analysis of Assembly Bill No. 775 at 3.

to "answer all of her questions." She would be "speechless" in response to any claim that centers like the one she attends are "deceptive" and has "never heard anyone say anything negative" about their experiences there.

Amicus Ebony Harris found the center she encountered in Baltimore, Maryland, to be "educational and very informative." In contrast, the abortion clinic she visited first "did not offer any education, counseling, or support." Ebony never felt misinformed or intimidated as the center was clear with Ebony that it did not perform or refer for abortions, though it offered many other services. Even when Ebony was strongly considering an abortion, the center coordinator unequivocally stated that the center would be there for her regardless of her decision.

Amicus Judith Downes, through post-abortion counseling, "connected the dots" between her abortion forty years prior to her tendency to seek abusive relationships. No longer punishing herself, Judith confidently helps other older women who struggle with similar difficulties years after having an abortion.

Amicus Laura Wu participated in "options counseling" at a center in Queens, New York, where she was informed about the choices available to pregnant women. Unlike the pressure to abort from her baby's father, Laura's decision to continue her pregnancy after visiting the center was fully informed and freely made.

Amicus Lindsey Samelson confirmed two pregnancies with free ultrasounds offered at centers in Colorado Springs, Colorado. Although she was

anxious, the centers gave her a strong start to her pregnancies and the confidence to balance motherhood and her professional goals.

Amicus Melissa Leach was able to confirm her advanced pregnancy and receive all of the support she needed in facing the challenges of having a premature baby. When asked to respond to the charge that pregnancy resource centers are deceptive, Melissa flatly retorted that such a claim is "bogus."

Amicus Nicole Howard similarly found her classes at the center in Baltimore extremely informative. Nicole asserts of her pregnancy and motherhood that she "could not have done it without them."

Amicus Shalane Tehotu and her husband were full of anxiety and questions about trisomy 13, the malady afflicting their developing child. When doctors pressured them to abort, the pregnancy resource center in Oahu patiently answered all their questions, provided emotional support, and introduced the couple to another family who had first-hand experience with a pregnancy like theirs.

Amicus Shanelle Felder thought that a chemical abortion could not be reversed once initiated. The Planned Parenthood that gave her the abortion pills failed to provide her with the complete medical picture. At a center in Denver, Shanelle's ultrasound confirmed the success of having progesterone injections to reverse the chemical abortion shortly after taking mifeprex at the Planned Parenthood clinic. Shanelle later benefitted from the emotional support she received at the center as staff helped her to abandon her fears and courageously assume maternity.

Because of her abortions, *amicus* Stephanie Kamanawa felt "disconnected." Through the post-abortion classes offered at the pregnancy resource center in Oahu, Hawaii, Stephanie learned how "to nurture" and "become a better wife and mother" as well as to reconnect with her artistic passion as a singer.

II. PREGNANCY RESOURCE CENTERS AND MEDICAL CLINICS PROVIDE INVALUABLE PERSONAL AND COMMUNITY SERVICES BEYOND PREGNANCY COUNSELING

Pregnancy resource centers and medical clinics in California and throughout the country provide invaluable supports and services beyond pregnancy counseling to women. These life-affirming supports enable women to recognize their worth and dignity as well as empower them to make significant contributions to their communities.

Amicus Angela Jozwicki was able to reestablish a relationship and home with her mother after both women received counseling at the center in Centereach, New York. They both now provide love and support for Angela's child, Cameryn.

Amicus Brenda Coe and her husband welcomed a child into their home after his birth mother received adoption counseling at a pregnancy resource center in California. The birth mother of their child maintains contact with her son. Her and the Coe family's special connection is testament to the generosity of both biological and adoptive parents for the well being of adopted children.

Amicus Brooke North received needed items from a center in Illinois such as diapers and wipes for her newborns using her "mommy bucks." The center even found an ExerSaucer jumper for her baby. In addition to these tangible supports, center staff gave friendship and genuine support. Brooke is so grateful, she has encouraged other friends to seek the center's help and the staff's kindness.

Amicus Ebony Harris describes how volunteers from the center in Baltimore brought baby clothes, diapers, wipes, food, toys, and a stroller to her house. Staff even bought her curtains and installed them for her when she was forced to move to a new apartment.

Amicus Judith Downes received post-abortion counseling and support at a center in the Denver area. Judith, along with other women, were able to meet in a group where they could "share," "hear," and "cry" with one another. Judith credits the center with helping her "get out of the darkness" she experienced as a result of having had an abortion decades ago.

For *amicus* Laura Wu, the decision to reject having an abortion was life-altering, "like a domino effect." Laura reconnected with a loving and supportive man who has since become her spouse and adopted her daughter. "If I had chosen an abortion, I know that I would have been a shell of a person today. I don't think I would ever been able to forgive myself had I given [my daughter's father] what he wanted."

Amicus Melissa Leach received parenting courses and counseling not just to help her with her developing baby, but also to help her better parent her older children. Center staff are providing emotional and

financial assistance to Melissa as she attends to the medical needs of her son who is hospitalized for being born prematurely.

Amicus Nicole Howard experienced material support from the center in Baltimore including mid-snowstorm diaper delivery, post-pregnancy education, and much needed "comradeship" in the early, hard days. She recalls attending parties at the center, bringing food, celebrating, and getting to see her fellow beneficiaries' children grow up. Nicole and her children now participate as volunteers with the center and find joy in serving their local community.

Amicus Shalane Tehotu and her husband celebrated the birth of their son and his short life alongside family and friends thanks to the encouragement they received at a center in Oahu, Hawaii.

Amicus Shanelle Felder not only received a "baby shower in the mail" from the staff at the center in Denver, but the encouragement she needed to reach out to others for help and support so that she "could stand up for myself." Whitney, a center staff member, continues to provide support and counsel to Shanelle as she co-parents with her daughter's father.

Filled with joy and hope, *amicus* Stephanie Kamanawa recovered her singing voice after benefitting from the supports she received at the center. Stronger and filled with a sense of purpose, Stephanie also now leads a youth group for children in her community.

III. PREGNANCY RESOURCE CENTERS AND MEDICAL CLINICS SERVE ALL PEOPLE, FREE OF CHARGE

Amici 13 women have each described their experiences with centers as "free of charge." Many of the women who come to centers are without sufficient resources to get access to basic prenatal care and infant necessities. These centers and clinics offer a loving and generous environment that not only helps to meet the material needs of these women, but also their emotional and spiritual need to feel connected to a community and part of a family.

CONCLUSION

This Court can keep the free and life-enhancing resources of pregnancy resource centers and medical clinics available to women and their families in the state of California and across the country. These centers are an essential resource for women seeking basic information and authentic choice in their moments of need. For this reason, and for those expressed in Petitioners' Brief on the Merits, *amici* request this Court to reverse the Ninth Circuit's refusal to enjoin California's FACT Act.

Respectfully Submitted,

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